

111TH CONGRESS  
1ST SESSION

# H. R. 2800

To amend the Federal Food, Drug, and Cosmetic Act to improve the safety of imported food, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

JUNE 10, 2009

Mr. BURGESS introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the Federal Food, Drug, and Cosmetic Act to improve the safety of imported food, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Imported Food Safety  
5 Improvement Act of 2009”.

6 **SEC. 2. AUTHORITY TO PROTECT THE PUBLIC HEALTH**  
7 **FROM CONTAMINATED IMPORTED FOODS.**

8 (a) AUTHORITY.—Section 801 of the Federal Food,  
9 Drug, and Cosmetic Act (21 U.S.C. 381) is amended by  
10 inserting after subsection (o) the following:

1       “(p)(1) The Secretary may refuse admission into the  
2 United States to any food (or any type of food) from a  
3 country, growing area, producer, manufacturer, or shipper  
4 if the Secretary makes a determination under paragraph  
5 (2) or an emergency determination under paragraph (3)  
6 to refuse admission to food (or the type of food involved)  
7 from such country, growing area, producer, manufacturer,  
8 or shipper.

9       “(2)(A) The Secretary may make a determination to  
10 refuse admission to food (or any type of food) from a  
11 country, growing area, producer, manufacturer, or shipper  
12 if such food (or type of food)—

13           “(i) has been associated with repeated and sep-  
14 arate outbreaks of foodborne disease or has been re-  
15 peatedly determined by the Secretary to be adulter-  
16 ated within the meaning of section 402;

17           “(ii) presents a reasonable probability of caus-  
18 ing significant adverse health consequences or death;  
19 and

20           “(iii) is likely, without systemic intervention or  
21 changes, to cause disease or be adulterated again.

22       “(B) The Secretary shall rescind a determination  
23 under this paragraph if the Secretary finds that such de-  
24 termination, because of remedial action or other cir-  
25 cumstances, is no longer justified.

1 “(C) A country, growing area, producer, manufac-  
2 turer, or shipper may submit a request to the Secretary  
3 to rescind a determination under this paragraph. Any such  
4 request shall be accompanied by supporting evidence.

5 “(D) Not later than 90 days after the submission of  
6 a request under subparagraph (C), the Secretary shall  
7 take action on such request. The Secretary’s action may  
8 include—

9 “(i) rescinding under subparagraph (B) the de-  
10 termination; or

11 “(ii) continuing to refuse admission to the food  
12 involved and requesting additional information or re-  
13 medial action.

14 “(E) If the Secretary does not take action on a re-  
15 quest under subparagraph (C) within 90 days after the  
16 date of submission of such request, effective on the 91st  
17 day after the date of such submission, the food initially  
18 refused admission under paragraph (1) may be imported  
19 into the United States.

20 “(3)(A) The Secretary may make an emergency de-  
21 termination to refuse admission to food (or any type of  
22 food) from a country, growing area, producer, manufac-  
23 turer, or shipper if such food (or type of food) has been  
24 strongly associated with a single outbreak of foodborne

1 disease that has caused serious adverse health con-  
2 sequences or death.

3 “(B) An emergency determination under this para-  
4 graph shall be in effect—

5 “(i) for a 30-day period; or

6 “(ii) until the Secretary rescinds the emergency  
7 determination.

8 “(4) Subject to paragraph (5), the Secretary may  
9 issue a determination under paragraph (2) or an emer-  
10 gency determination under paragraph (3) immediately.

11 “(5) Any refusal to admit food under this subsection  
12 shall be done in a manner consistent with bilateral, re-  
13 gional, and multilateral trade agreements and the rights  
14 and obligations of the United States under the agree-  
15 ments.

16 “(6) Not later than 90 days after the date of the en-  
17 actment of the Imported Food Safety Improvement Act  
18 of 2009, the Secretary shall promulgate final regulations  
19 to carry out this subsection.”.

20 (b) EFFECTIVE DATE.—Section 801(p) of the Fed-  
21 eral Food, Drug, and Cosmetic Act, as added by sub-  
22 section (a), shall take effect on the effective date provided  
23 in the regulations promulgated under section 801(p)(6) of  
24 such Act or the date that is 90 days after the date of  
25 the enactment of this Act, whichever is earlier.

1       (c) CONFORMING AMENDMENT.—Subsection (a) of  
2 section 801 of the Federal Food, Drug, and Cosmetic Act  
3 (21 U.S.C. 381) is amended, in the third sentence by  
4 striking “then such article shall be refused admission” and  
5 inserting “or (4) such article is food subject to a deter-  
6 mination in effect under paragraph (2) or (3) of sub-  
7 section (p), then such article shall be refused admission”.

8 **SEC. 3. RULE OF CONSTRUCTION.**

9       Nothing in this Act or the amendments made by this  
10 Act shall be interpreted to diminish the authority of the  
11 Commissioner of Food and Drugs to ensure the safety of  
12 food.

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